

FILED

DATE: MAY 11 1998

Sharol Strickland, Clerk

By E. GODINEZ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF BUTTE

IN THE MATTER OF THE	)	No. 18917
DETERMINATION OF THE RIGHTS OF)	
THE VARIOUS CLAIMANTS TO THE	)	ORDER WITHDRAWING
WATERS OF THAT PORTION OF BUTTE	)	REFERENCE OF RESOURCE
CREEK AND ITS TRIBUTARIES SITUATE	)	RENEWAL INSTITUTE'S
ABOVE THE WESTERN DAM NEAR	)	MOTION FOR CHANGE IN
NELSON, IN BUTTE COUNTY,	)	PURPOSE OF USE, PLACE OF
CALIFORNIA	)	USE AND POINT OF
	)	DIVERSION TO STATE WATER
	)	RESOURCES CONTROL BOARD
	)	AND GRANTING MOTION
)	
)	
)	

The Resource Renewal Institute filed a motion for change in purpose of use, place of use and point of diversion in this action on March 31, 1997. Three parties filed oppositions to this motion. Those parties are: (1) the Western Canal Water District; (2) the Butte Basin Water Users Association; and (3) the Butte Country Club.

On August 18, 1997, this Court referred the Institute's motion to the State Water Resources Control Board, as referee, for development of a report of referee, pursuant to Water Code section 2000.

On April 7, 1998, the Butte Country Club filed with this Court a statement of non-opposition and withdrawal of its objection to the Institute's motion for change in purpose of use, place of use and point of diversion.

1 On April 9, 1998, the Western Canal Water District filed a notice of withdrawal of its
2 objection to the Institute's motion for change in purpose of use, place of use and point of
3 diversion.

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5 On April 9, 1998, William H. Baber III, attorney for the Butte Basin Water Users
6 Association, sent a letter to the State Water Board, with a copy to this Court, stating that the
7 Association voted to no longer oppose the Institute's motion provided that the Institute would
8 not seek reimbursement from the Association of any of the Institute's costs or attorney fees
9 expended in pursuing the Institute's motion. The Institute's attorney has informed this Court
10 that the Institute is willing to agree not to seek any reimbursement from the Association of any
11 of the Institute's costs or attorney fees expended in pursuing the Institute's motion. The
12 Association's condition for withdrawing its opposition to the Institute's motion for change in
13 purpose of use, place of use and point of diversion therefore has been satisfied.

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15 On April 21, 1998, the Institute filed a notice of motion to withdraw the Court's prior
16 reference to the State Water Board, and to grant the Institute's motion for change in purpose of
17 use, place of use and point of diversion. This motion was set for hearing on May 11, 1998.

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19 No party filed any opposition to the Institute's April 21, 1998 notice of motion, and, after
20 this Court announced its tentative ruling on May 8, 1998, no party asked this Court to hold a
21 hearing on the motion.

22 The court, having considered all of the evidence and arguments submitted by the parties,
23 rules as follows:

24 1. The Court withdraws its August 18, 1997 reference of the Institute's motion for
25 change in purpose of use, place of use and point of diversion to the State Water Resources
26 Control Board. No party shall be obligated to pay any State Water Board reference expenses
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28

1 regarding the Institute's motion for change in purpose of use, place of use and point of
2 diversion.

3 2. Pursuant to sections 1706 and 1707 of the Water Code and paragraph 91 of the
4 November 6, 1942 judgment and decree in this action, the Court orders the following changes
5 in purpose of use, place of use and point of diversion of the water rights listed for claimants
6 Clarence S. Entler, Mary E. Roth and Bee P. Compton in Schedule 7 on page 76 of the
7 November 6, 1942 judgment and decree:
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9 a. The authorized purpose of use in these water rights is changed to be
10 protection of fish and wildlife dependent on instream flows in the portion of Butte
11 Creek that is specified as the authorized place of use;
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13 b. The authorized place of use in these water rights is changed to be Butte
14 Creek between diversion number 54 (which is located in the NW ¼ of the SE ¼
15 of section 5, Township 21 North, Range 2 East, M.D.B.&M.) and the confluence
16 of Butte Creek and Butte Slough (which is located in the NW ¼ of the NW ¼ of
17 section 36, Township 16 North, Range 1 West, M.D.B.&M.); and
18

19 c. The present authorized point of diversion of these water rights is
20 eliminated.

21 3. Each party shall bear its own costs and attorney fees incurred in connection with the
22 Institute's motion for change in purpose of use, place of use and point of diversion.

23 Dated: MAY 11 1998

BY THE COURT:

24
25 ROGER GILBERT

26 Roger G. Gilbert, Judge of the Superior Court
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